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September 21, 2021

BY ECF

The Honorable Ronnie Abrams
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Jennifer Eckhart v. Fox News Network, LLC, et al., Civil Case No. 1:20-cv-05593

Dear Judge Abrams,

I am writing on behalf of Defendant Ed Henry regarding the Court's Opinion & Order in the above referenced case, dated September 9, 2021 (the "Eckhart Opinion"). Mr. Henry plans to move the Court to reconsider portions of its Eckhart Opinion pursuant to S.D.N.Y. Local Civil Rule 6.3. The deadline to file the Motion for Reconsideration is this Thursday, September 23, 2021.

Mr. Henry's Motion for Reconsideration will raise two grounds for review: (1) the Court's denial of Mr. Henry's motion to dismiss the claims for retaliation and revenge porn, and its accompanying decision finding the public filing of redacted photographs Jennifer Eckhart sent Mr. Henry to not be a reasonable litigation practice, and (2) its denial of Mr. Henry's motion to dismiss the New York State and City Human Rights claims as untimely. Under Local Civil Rule 6.3, a party may file affidavits in support of a Motion for Reconsideration with leave from the Court. Mr. Henry now is writing the Court to request permission to file two declarations with regard to the first ground only: the first is a declaration that I authored, attached here as Exhibit 1, reflecting counsel's analysis regarding the filing of the photographs, while the second is declaration of Professor Bruce A. Green, the Louis Stein Chair at Fordham University School of Law and Director of the Louis Stein Center for Law and Ethics, dated September 21, 2021,

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attached here as Exhibit 2, setting forth his opinion that in filing the photographs, Mr. Henry's defense counsel were engaged in appropriate zealous advocacy in keeping with their ethical obligations to Mr. Henry.

The Eckhart Opinion has had and will continue to have a lasting impact on the ability of counsel for defendants in sexual harassment and assault cases to defend their clients as well as an impact on defendants' rights to defend themselves. Accordingly, in support of his motion for reconsideration, Mr. Henry believes it is important for the Court to understand counsel's reasoning for attaching the photographs and their ethical obligation to take such action. Mr. Henry therefore respectfully requests the right to submit these declarations for the Court's consideration.

Respectfully submitted,

/s/ Catherine M. Foti

cc: All counsel of record (via ECF)